

**UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT**

LOU'S TRANSPORT, INC.; T.K.M.S., Inc.,

Petitioners Cross-Respondents,

Originating Case No. 07-CA-102517

v.

Petition for Review Case No. 18-1909

NATIONAL LABOR RELATIONS
BOARD,

Cross-Application Case No. 18-1988

Respondent Cross-Petitioner.

SUPPLEMENTAL BRIEF FOR ORAL ARGUMENT

During the oral argument on June 20, 2019, the Panel requested that we provide supplemental information showing when we informed the Board that we believed that the interim expenses, at a minimum, should be offset against interim earnings. While Appellants believe that *King Soopers* did not apply and that all interim expenses should not be determined independently of interim earnings, Appellants have consistently argued that at a minimum these amounts should be offset. Indeed, in the Exceptions to the ALJ's decision, Exception 6 provided that, "Respondents take exception to Administrative Law Judge Kimberly Sorg-Graves' finding and ruling on pages 9-11 of her Supplemental Decision that interim expenses were reasonably calculated in the Board's Compliance Specification and correctly not offset by interim earnings." (Respondents' Exceptions to

Administrative Law Judge's January 25, 2018 Supplemental Decision, dated February 19, 2018, p. 2.)

/s/ Steven A. Wright

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Dated: June 25, 2019

CERTIFICATE OF SERVICE

I hereby certify that on June 25, 2019, I electronically filed the foregoing document with the Clerk of the Court for the United States Court of Appeals for the Sixth Circuit by using the CM/ECF system. I certify that the foregoing document was served on all parties or their counsel of record through the appellate CM/ECF system that being:

Linda Dreeben, Deputy Associate General Counsel

National Labor Relations Board

Elizabeth Heaney, National Labor Relations Board

Steven A. Bieszczat, National Labor Relations Board

National Labor Relations Board, Appellate and Supreme Court,
Litigation Branch,

I certify that the foregoing document was sent via first class mail to:

Michael Hershey, 4645 Pinedale Avenue, Clarkston, MI 48346-3754

Terry A. Morgan, National Labor Relations Board, Region 7
477 Michigan Avenue, Room 300, Detroit, MI 48226

I am competent and able to testify to the statements contained herein if called upon to do so in a court of law.

/s/ Sandra L. Wright

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